IN THE UNITED STATES

PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Michael Saucier, *et al.*
APPLICATION NO.:	10/055,870
FILING DATE:	January 21, 2002
TITLE:	System and Method for Facilitating Transactions Between Product Brand Manager and Manufacturing Organizations
EXAMINER:	Jonathan P. Ouellette
GROUP ART UNIT:	3629
ATTY. DKT. NO.:	16239-07171

CERTIFICATE OF ELECTRONIC (EFS-WEB) TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.8(a)(i)(C) from the Pacific Time Zone of the United States on the local date shown below.

Dated: April 14, 2008

By: /Daniel R. Brownstone 46581/
Daniel R. Brownstone, Reg. No. 46,581

MAIL STOP APPEAL BRIEF-PATENTS
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

APPEAL BRIEF

Real Party in Interest

The real party in interest in this Appeal is OSI Software, Inc., a California corporation.

Related Appeals and Interferences

No other prior or pending appeals, interferences or judicial proceedings are known to Appellant, Appellant's legal representative, or the Assignee that may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-77 and 84 are pending in this Application and stand rejected. Claims 78-82 are canceled. Claims 83 and 85 are withdrawn. Claims 1-77 and 84 are included in this Appeal.

Status of Amendments

No amendments have been filed subsequent to final rejection.

Summary of Claimed Subject Matter

The claimed invention facilitates transactions between product brand managers and manufacturers. Brand managers are able to discover information about which manufacturers possess the capability to manufacture a product brand, without having to disclose their confidential product brand information to the manufacturers. Manufacturers are likewise able to keep their manufacturing capabilities in confidence by not having them disclosed to product brand manufacturers unless and until they are determined to be capable of meeting the brand managers' needs. Put another way, manufacturers do not know the product brand information, and product brand managers do not know the manufacturers capabilities—the product brand managers know only that certain identified manufacturers have the capability needed for the

product brand. This maximizes the confidentiality for both the product brand and manufacturing sides, since neither has to disclose their needs or capacity, respectively, to the other.

The appealed independent claims, claims 1 and 84, recite a method and system, respectively, for facilitating transactions between a product brand manager and manufacturing organizations using a transactional computer system. (Spec. p. 8, lines 1-5.) Product brand information, which includes information for manufacturing the product brand, is received at a transactional computer system. (Spec. p. 8, lines 11-13.) The transactional computer system also receives information about manufacturing process capabilities of the manufacturing organizations. (Spec. p. 8, lines 13-15.) Using the information received from the brand manager and manufacturers, the transactional computer system determines a set of suitable candidate manufacturing organizations, and provides information about the candidates to the product brand manager. (Spec. p. 8, line 15 – p. 9, line 2.)

Product brand manager computers include storage devices for storing product brand information, and communications means for communicating the product brand information over a network to the transactional computer system. (Spec. p. 20, lines 7-10.) Each of the manufacturing organization computers has a storage device for storing the manufacturing organization information for the manufacturing, and communications means for communicating the manufacturing organization information to the transactional computer system. (Spec. p. 20, lines 10-13.)

The transactional computer system has a processor adapted to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the candidate manufacturing organizations as noted above. The selection information is then communicated by communications means to the product

brand manager computer without human intervention at the transactional computer system. (Spec. p. 20, lines 14-20.)

Claim 84 includes a means-plus-function limitation, i.e. "communication means". The specification identifies the corresponding structure for "communications means" as a modem, network card, network connection, and other coupling device. (Spec. at p. 39, lines 13-15).

Grounds of Rejection to be Reviewed on Appeal

Claims 1-77 and 84 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. US 2002/0010525 A1 to Radjy et al. ("Radjy").

Argument

Rejections Under 35 U.S.C. § 103(a) in view of Radjy

Claims 1-77 and 84

The Examiner rejected claims 1-77 and 84 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. US 2002/0010525 A1 to Radjy. A claimed invention is not patentable if the subject matter of the claimed invention would have been obvious to a person having ordinary skill in the art. 35 U.S.C. § 103(a); *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007); *Graham v. John Deere Co. of Kansas City,* 5 383 U.S. 1 (1966).

Claim 1 is illustrative:

> A method for facilitating transactions between a product brand manager and manufacturing organizations using a transactional computer system, the method comprising:

receiving at the transactional computer system product brand information from the product brand manager, the product brand information including information for manufacturing a product brand;

receiving at the transactional computer system from each of the manufacturing organizations information about the manufacturing process capabilities of the manufacturing organization;

determining from the received product brand information and the received information about the manufacturing process capabilities of the manufacturing organizations a set of candidate manufacturing organizations for the product brand, the determination made without providing the product brand information to the manufacturing organizations or the manufacturing process capabilities to the product brand manager; and

providing information about the set of candidate manufacturing organizations to the product brand manager.

Radjy describes an apparatus and method for a vertically-integrated construction business. Radjy teaches using the Web to integrate the various steps involved in concrete manufacture and distribution. (See, e.g., Radjy, Abstract.) As part of the described integration, Radjy discusses the linking of customers that need concrete to suppliers that have concrete. (See, e.g., Radjy at [0055].) One particular approach taught by Radjy is a process whereby an engineering specifier (also known as an "AEC") specifies a particular concrete manufacturer's products. (*Id.* at [0129].) The AEC then converts the concrete specifications into an XML format and publishes the specifications on the Internet. Next, "[t]he AEC then selects a concrete supplier 508 based on these specifications and the geographic location of where the concrete is needed" (*Id.* at [0130]) (emphasis added).

According to Radjy, the selection by the AEC may be performed in one of two ways. In the first way, an AEC can "utilize the concrete exchange system to locate the necessary suppliers for his concrete on his own" (*Id.* at [0130]). In an alternative arrangement, "the AEC may post a request for information . . . Then, a sales or technical services representative 516 from the target (prospective concrete manufacturer) company will preferably contact the AEC to discuss the project" (*Id.* at [0131]).

Once the AEC has selected a manufacturer of its choosing, a set of particular mixes and brands used by the selected manufacturer are then determined according to what is appropriate to the AEC's project needs. (*Id.* at [0132].)

In each of the scenarios described by Radjy, either the AEC, the concrete manufacturers, or both are required to make known their needs and abilities to the other party in order to determine whether a match is possible. That is, there is no teaching in Radjy of "determining a set of candidate manufacturing organizations for the product brand . . . without providing the product brand information to the manufacturing organizations," as claimed.

The Examiner recognizes this deficiency, but responds that Radjy teaches storing manufacturer capabilities and project specification needs in a database, and that the AEC can use the saved information to find a manufacturer. (Final Office Action, p. 3.) Indeed, this is consistent with Radjy's teaching, noted earlier, that an "AEC can "utilize the concrete exchange system to locate the necessary suppliers for his concrete on his own," (Radjy at [0130]), and does nothing to cure the deficiencies of Radjy.

Next, the Examiner asserts that the difference between what is claimed and what Radjy discloses is simply a process of automation that "gives you just what you would expect from the manual step disclosed by Radjy (Para 0130)" (Final Office Action, p. 3). .

In the "manual step" of Radjy, the AEC sorts through the concrete exchange system to locate suppliers of interest. Necessarily, the AEC is reviewing details of the manufacturers' production abilities in order to select which are of interest. Alternatively, the AEC can post a request for information (RFI) that is converted into a concrete exchange-based format and provided to the manufacturers. In both cases, information from one party is being shared

with one or more of the other parties, either about production needs or production capabilities.

The claimed invention enables the matching of brand managers with manufacturing organizations without the broad disclosure of information required by Radjy. The set of candidate manufacturing organizations is determined "without providing the product brand information to the manufacturing organizations or the manufacturing process capabilities to the product brand managers".

As described in Applicants' written description, "communication of the product brand information often poses a risk of that information being compromised or misappropriated. If the product brand manager wishes to contact a number of manufacturing organizations to inquire about the possibility of enlisting them [to] undertake the manufacture, this typically will result in this sensitive information being placed in the hands of an actual or potential competitor" (Specification [0014]).

Thus, contrary to the Examiner's assertion that "the end result is the same as compared to the manual method," the use of the claimed method preserves sensitive information of the parties in greater confidence, directly addressing the problem identified above, and patentably distinct from what is taught by Radjy.

Dependent claims 2-77 are also patentable over Radjy, both because each recites its own patentable features, and because each depends from patentable claim 1.

Independent claim 84 is similarly patentable over Radjy. As discussed above with respect to claim 1, Radjy does not disclose a "transactional computer system adapted to . . . make the selection of the at least one candidate manufacturing organization without providing the product brand information to the manufacturing organizations or the

manufacturing organization information to the product brand manager" as claimed. Accordingly, claim 84 is patentable over Radjy and the rejection should be reversed.

Respectfully submitted,
MICHAEL SAUCIER *et al.*

Dated: April 14, 2008

By: /Daniel R. Brownstone 46,581/
Daniel R. Brownstone Reg. No.: 46,581
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2358
Fax.: (650) 938-5200

Claims Appendix

1. A method for facilitating transactions between a product brand manager and manufacturing organizations using a transactional computer system, the method comprising:

receiving at the transactional computer system product brand information from the product brand manager, the product brand information including information for manufacturing a product brand;

receiving at the transactional computer system from each of the manufacturing organizations information about the manufacturing process capabilities of the manufacturing organization;

determining from the received product brand information and the received information about the manufacturing process capabilities of the manufacturing organizations a set of candidate manufacturing organizations for the product brand, the determination made without providing the product brand information to the manufacturing organizations or the manufacturing process capabilities to the product brand manager; and

providing information about the set of candidate manufacturing organizations to the product brand manager.

2. A method as recited in claim 1, wherein the communicating of the product brand information from the product brand manager to the transactional computer system is performed without human intervention at the transactional computer system.

3. A method as recited in claim 1, wherein the communicating of the manufacturing organization information for the manufacturing organizations from the manufacturing

organizations to the transactional computer system is performed without human intervention at the transactional computer system.

4. A method as recited in claim 1, wherein the using of the transactional computer system to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization is performed without human intervention at the transactional computer system.

5. A method as recited in claim 1, wherein the use of the transactional computer system to compare the product brand information to the manufacturing organization information is performed without human intervention at the transactional computer system.

6. A method as recited in claim 1, wherein the use of the transactional computer system to communicate the selection information to the product brand manager is performed without human intervention at the transactional computer system.

7. A method as recited in claim 1, wherein:

the product brand manager comprises a product brand manager computer; and

the transactional computer system is operatively coupled to the product brand computer to communicate the product brand information from the product brand computer and to communicate the selection information to the product brand computer.

8. A method as recited in claim 1, wherein:

each of the manufacturing organizations comprises a manufacturing organization computer; and

the transactional computer system is operatively coupled to each of the manufacturing organization computers to receive the manufacturing organization information from the manufacturing organization computers.

9. A method as recited in claim 1, wherein:

the product brand manager comprises a product brand manager computer;

each of the manufacturing organizations comprises a manufacturing organization computer;

the transactional computer system is operatively coupled to the product brand computer to communicate the product brand information from the product brand computer and to communicate the selection information to the product brand computer; and

the transactional computer system is operatively coupled to each of the manufacturing organization computers to receive the manufacturing organization information from the manufacturing organization computers.

10. A method as recited in claim 9, wherein the transactional computer system receives the product brand information and the manufacturing organization information from the product brand manager computer and the manufacturing organization computer respectively without human intervention at the transactional computer system and automatically selects the at least one candidate manufacturing organization without human intervention at the transactional computer system.

11. A method as recited in claim 10, wherein the transactional computer system generates the selection information without human intervention.

12. A method as recited in claim 10, wherein the transactional computer system communicates the selection information to the product brand manager without human intervention.

13. A method as recited in claim 1, wherein the transactional computer system comprises at least one computer operatively coupled to a network.

14. A method as recited in claim 13, wherein the transactional computer system comprises a plurality of computers and a distributed database.

15. A method as recited in claim 1, wherein the transactional computer system comprises a local area network.

16. A method as recited in claim 1, wherein the transactional computer system comprises a wide area network.

17. A method as recited in claim 1, wherein the product brand manager comprises an owner of the product brand.

18. A method as recited in claim 1, wherein the product brand manager comprises a product development organization.

19. A method as recited in claim 1, wherein the product brand comprises a material manufactured by a batch chemical process.

20. A method as recited in claim 1, wherein the product brand information communication comprises communicating the product brand information to comprise a general recipe.

21. A method as recited in claim 1, wherein the product brand information communication comprises communicating the product brand information to comprise pricing information.

22. A method as recited in claim 1, wherein the product brand information communication comprises communicating the product brand information to comprise schedule information.

23. A method as recited in claim 1, wherein the product brand information communication comprises communicating the product brand information to comprise delivery information.

24. A method as recited in claim 1, wherein the product brand information communication comprises communicating the product brand information to comprise quality information.

25. A method as recited in claim 1, wherein the product brand information communicating comprises communicating the product brand information in a general recipe format.

26. A method as recited in claim 1, wherein the product brand information communicating comprises communicating the product brand information in a normalized format.

27. A method as recited in claim 1, wherein the manufacturing organizations comprise contract manufacturing organizations.

28. A method as recited in claim 1, wherein each of the manufacturing organizations comprises a site.

29. A method as recited in claim 1, wherein each of the manufacturing organizations comprises an area.

30. A method as recited in claim 1, wherein each of the manufacturing organizations comprises a process cell.

31. A method as recited in claim 1, wherein the manufacturing organization information comprises site information.

32. A method as recited in claim 1, wherein the manufacturing organization information comprises area information.

33. A method as recited in claim 1, wherein the manufacturing organization information comprises process cell information.

34. A method as recited in claim 1, wherein the manufacturing organization information comprises equipment information.

35. A method as recited in claim 1, wherein the manufacturing organization information comprises flow information.

36. A method as recited in claim 1, wherein the manufacturing organization information comprises scheduling information.

37. A method as recited in claim 1, wherein the manufacturing organization information comprises price information.

38. A method as recited in claim 1, wherein the manufacturing organization information comprises delivery information.

39. A method as recited in claim 1, wherein the manufacturing organization information comprises capacity information.

40. A method as recited in claim 1, wherein the manufacturing organization information comprises plant location information.

41. A method as recited in claim 1, wherein:

each of the manufacturing organizations is capable of manufacturing a product; and

the manufacturing organization information for each of the manufacturing organizations comprises the product for the manufacturing organization.

42. A method as recited in claim 1, wherein:

each of the manufacturing organizations is capable of manufacturing a product within at least one product classification; and

the manufacturing organization information for each of the manufacturing organizations comprises the at least one product classification for the manufacturing organization.

43. A method as recited in claim 1, wherein the manufacturing organization information communicating comprises communicating the manufacturing organization information in a normalized format.

44. A method as recited in claim 1, further comprising excluding the product brand information from the manufacturing organizations.

45. A method as recited in claim 1, further comprising excluding the manufacturing information from the product brand manager.

46. A method as recited in claim 1, wherein the product brand information communicating comprises communicating the product brand information to comprise a general recipe.

47. A method as recited in claim 46, wherein the processing comprises converting the general recipe to a plurality of master recipes, and comparing the plurality of master recipes to the manufacturing organization information.

48. A method as recited in claim 1, wherein the product brand information processing comprises formatting the product brand information to comprise a general recipe.

49. A method as recited in claim 46, wherein the processing comprises converting the general recipe to a plurality of master recipes, and comparing the plurality of master recipes to the manufacturing. organization information.

50. A method as recited in claim 1, wherein the processing comprises providing a normalized set of process parameters, and converting the product brand information to the normalized set of process parameters.

51. A method as recited in claim 1, wherein the manufacturing organization information communication comprises providing a normalized set of process parameters, and providing the manufacturing organization information for each of the manufacturing organizations as the normalized set of process parameters.

52. A method as recited in- claim 1, wherein the processing comprises providing a normalized set of process parameters, and converting the manufacturing organization information for each of the manufacturing organizations to the normalized set of process parameters.

53. A method as recited in claim 1, wherein the processing comprises:

providing a normalized set of process parameters;

converting the product brand. information to the normalized set of process parameters; and

converting the manufacturing organization information to the normalized set of process parameters.

54. A method as recited in claim 1, wherein the product brand information is stored in a database.

55. A method as recited in claim 1, wherein the product brand information is stored in a distributed database.

56. A method as recited in claim 1, wherein the product brand information is stored in a secure database.

57. A method as recited in claim 1, wherein the manufacturing organization information is stored in a database.

58. A method as recited in claim 1, wherein the manufacturing organization information is stored in a distributed database.

59. A method as recited in claim 1, wherein the manufacturing organization information is stored in a secure database.

60. A method as recited in claim 1, wherein:

the product brand information comprises a general recipe; and

the processing comprises converting the general recipe into at least one master recipe.

61. A method as recited in claim 60, wherein the processing comprises converting the general recipe into a plurality of the master recipes.

62. A method as recited in claim 61, wherein the processing comprises comparing the plurality of the master recipes with the manufacturing organization information.

63. A method as recited in claim 1, wherein:

the product brand information comprises steps required to make the product brand;

the manufacturing organization information comprises steps capable of being carried out by the manufacturing organization; and

the processing comprises comparing the product brand information steps with the manufacturing organization steps to identify a match.

64. A method as recited in claim 1, wherein the at least one candidate manufacturing organization selection comprises selecting as the at least one candidate manufacturing organization each of the manufacturing organizations that has at least one master recipe for the general recipe for the product brand.

65. A method as recited in claim 1, wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the

manufacturing organizations a score, and including within the selection information each of the at least one candidate manufacturing organizations for which the score is above a threshold value.

66. A method as recited in claim 1, wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the manufacturing organizations a score, and including within the at least one candidate manufacturing organizations a predetermined number of the manufacturing organizations having the highest of the scores.

67. A method as recited in claim 1, wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the manufacturing organizations a rank, and including within the selection information each of the at least one candidate manufacturing organizations in order of the rank.

68. A method as recited in claim 1, wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information satisfies a weighted set of selection criteria.

69. A method as recited in claim 1, wherein the selection information comprises the number of manufacturing organizations comprising the at .least one candidate manufacturing organizations.

70. A method as recited in claim 1, wherein the selection information comprises information sufficient to confirm that the at least one candidate manufacturing organization

can manufacture the product brand according to the product brand information, but the selection information excludes information sufficient to identify the at least one candidate manufacturing organization.

71. A method as recited in claim 1, wherein the selection information comprises information useful to the product brand manager.

72. A method as recited in claim 1, wherein the selection information comprises price information.

73. A method as recited in claim 1, wherein the selection information comprises public selection information and private selection information; and

the selection information communicating comprises communicating the authorized selection information to the product brand manager and withholding the unauthorized selection information from the product brand manager.

74. A method as recited in claim 1, wherein the communication of the selection information to the product brand manager comprises communicating the selection information to a product brand manager computer accessible by the product brand manager.

75. A method as recited in claim 74, wherein the communication of the selection information to the product brand manager comprises communicating the selection information automatically upon the selection of the at least one candidate manufacturing organization, without human intervention.

76. A method as recited in claim 1, further comprising communicating the selection information to the at least one candidate manufacturing organization.

77. The method of claim 1, further comprising:

converting the received product brand information into a plurality of master recipes; and

using the master recipes to determine the set of candidate manufacturing organizations.

84. A system for facilitating transactions between a product brand manager and manufacturing organizations, the product brand manager having a product brand and product brand information comprising information for manufacturing the product brand, and there being manufacturing organization information for each of the manufacturing organizations comprising the manufacturing process capabilities of the respective manufacturing organization, the system comprising:

a network comprising a transactional computer system, at least one product brand manager computer and a plurality of manufacturing organization computers, each of the manufacturing organizations having one of the plurality of the manufacturing organization computers;

the product brand manager computer comprising a storage device for storing the product brand information and communication means for communicating the product brand information to the transactional computer system;

each of the manufacturing organization computers comprising a storage device for storing the manufacturing organization information for the manufacturing, and communication means for communicating the manufacturing organization information to the transactional computer system;

the transactional computer system comprising a processor adapted to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization, and further adapted to make the selection of

the at least one candidate manufacturing organization without providing the product brand information to the manufacturing organizations or the manufacturing organization information to the product brand manager; and

communications means for communicating the selection information to the product brand manager computer without human intervention at the transactional computer system.

Evidence Appendix

None

Related Proceedings Appendix

None